

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRADFORD BENALLIE,

Plaintiff,

vs.

No. CV 14-144-SMV

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security Administration,**

Defendant.

AGREED ORDER AWARDING ATTORNEY FEES UNDER EAJA

THIS MATTER having come before the Court upon Plaintiff's Amended Unopposed Motion for Attorney Fees Under Equal Access to Justice Act (Doc. #30) the Court FINDS that the Motion for Attorney Fees should be granted.

IT IS THEREFORE ORDERED that attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff in care of his attorney in the amount of \$1,500.00. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS FURTHER ORDERED THAT, if after receiving the Court's EAJA fee order, the Commissioner (1) determines upon effectuation of the Court's EAJA fee order that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program, and (2) agrees to

waive the requirements of the Anti-Assignment Act, the fees will be made payable to Plaintiff's attorney. However, if there is a debt owned under the Treasury Offset Program, the Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check made out to Plaintiff but delivered to Plaintiff's attorney.

DATED this 24th day of April 2015.



The Honorable Stephan M. Vidmar
United States Magistrate Judge

SUBMITTED BY:

s/ Feliz M. Martone
Feliz M. Martone
Attorney for Plaintiff

APPROVED BY:

/s/ Noah Schabacker
Noah Schabacker
Attorney for Defendant